

PTO/SB/30 (04-05)

Approved for use through 07/31/2006, OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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# Request for Continued Examination (RCE) Transmittal

Address to:  
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	10/787,002
Filing Date	January 28, 2005
First Named Inventor	Robert Braslow
Art Unit	1761
Examiner Name	Weinstein, Steven L.
Attorney Docket Number	66873-010001

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**  
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

- Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
  - ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
    - ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
    - ☒ Other Response dated July 26, 2005 to Office Action dated March 4, 2005
  - ☐ Enclosed
    - ☐ Amendment/Reply
    - ☐ Affidavit(s)/Declaration(s)
    - ☐ Information Disclosure Statement (IDS)
    - ☐ Other \_\_\_\_\_
- Miscellaneous**
  - ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
  - ☐ Other \_\_\_\_\_
- Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed. The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 13-0206. I have enclosed a duplicate copy of this sheet.
  - ☒ RCE fee required under 37 CFR 1.17(e)
  - ☐ Extension of time fee (37 CFR 1.136 and 1.17)
  - ☐ Other \_\_\_\_\_
  - ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
  - ☐ Payment by credit card (Form PTO-2038 enclosed)

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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	<u>Patrick D. Richards</u>	Date	November 14, 2005
Name (Print/Type)	Patrick D. Richards	Registration No.	48,905

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below. (571) 273-8300

Signature	<u>Patrick D. Richards</u>	Date	November 14, 2005
Name (Print/Type)	Patrick D. Richards		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**McDermott  
Will & Emery****RECEIVED  
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New York Orange County Rome San Diego Silicon Valley Washington, D.C.**FACSIMILE****Date:** November 14, 2005**Time Sent:**

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Mail Stop RCE	U.S. Patent and Trademark Office	571.273.8300	
<b>From:</b>	Patrick D. Richards	<b>Direct Phone:</b>	312.984.6940
<b>E-Mail:</b>	prichards@mwe.com	<b>Direct Fax:</b>	312.984.7700
<b>Sent By:</b>	Catherine N. Hunter	<b>Direct Phone:</b>	312.899.7246
<b>Client/Matter/Tkpr:</b>	66873/010/5334	<b>Original to Follow by Mail:</b>	No
		<b>Number of Pages, Including Cover:</b>	6
<b>Re:</b>	RCE for 10/767,002		

**Message:**Attached:  
Facsimile Cover Sheet (1 p.);  
Certificate of Facsimile (1 p.);  
Fee Transmittal (1 p. - in dup.) and  
RCE Transmittal (1 p. - in dup.).

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Main Facsimile: 312.984.7700 Facsimile Assistance: Outgoing Faxes: 312.984.2147; Incoming Faxes: 312.984.2134

U.S. practice conducted through McDermott Will & Emery LLP.  
227 West Monroe Street Chicago, Illinois 60606-5098 Telephone: 312.372.2000

**In re Appln. of Breslow, et al.  
RCE for U.S. Patent Appln. No. 10/767,002  
"Frozen Additive for Use with a Heated Beverage"  
MWE Ref. No. 66873-010001**

**CERTIFICATE OF FACSIMILE TRANSMISSION**

Facsimile Date: November 14, 2005

I hereby certify that the following documents:

Facsimile Cover Sheet (1 p.);  
Certificate of Facsimile (1 p.);  
Fee Transmittal (1 p. - in dup.) and  
RCE Transmittal (1 p. - in dup.).

are being transmitted by facsimile to Mail Stop RCE, Group Art Unit 2162, Commissioner  
for Patents at Facsimile Number (571) 273-8300, on the date indicated.

Patrick D. Richards

(Typed or printed name of person faxing paper or fee)

*Patrick D. Richards*

(Signature of person faxing paper or fee)

PTO/SB/17 (12-04)

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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4318).

**FEE TRANSMITTAL**  
**For FY 2005**☒ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 395**Complete if Known**

Application Number	10/767,002
Filing Date	January 28, 2004
First Named Inventor	Robert Breslow
Examiner Name	Weinstein, Steven L.
Art Unit	1761
Attorney Docket No.	66873-010001

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**METHOD OF PAYMENT (check all that apply)**

- ☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_
- ☒ Deposit Account Deposit Account Number: 13-0206 Deposit Account Name: McDermott Will & Emery LLP
- For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)
- ☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
- ☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
0 - 20 or HP =	0	50	0			
HP = highest number of total claims paid for, if greater than 20						
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)			
0 - 3 or HP =	0	200	0			
HP = highest number of independent claims paid for, if greater than 3						

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number) x	_____	0

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other: Request for Continued Examination (\$395)

395

**SUBMITTED BY**

Signature	Patrick D. Richards	Registration No. (Attorney/Agent)	48,905	Telephone	312.372.2000
Name (Print/Type)	Patrick D. Richards	Date	November 14, 2005		

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (12-04)  
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# FEE TRANSMITTAL For FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 395

## Complete if Known

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Filing Date January 28, 2004  
First Named Inventor Robert Breslow  
Examiner Name Weinstein, Steven L.  
Art Unit 1761  
Attorney Docket No. 66873-010001

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☒ Deposit Account Deposit Account Number: 13-0206 Deposit Account Name: McDermott Will & Emery LLP

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Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

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HP = highest number of total claims paid for, if greater than 20						
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)			
0	- 3 or HP =	0	200	0		
HP = highest number of independent claims paid for, if greater than 3						

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Signature	Patrick D. Richards	48,905	312.372.2000
Name (Print/Type)	Patrick D. Richards	Date	November 14, 2005

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